



In re application of: Richard Hammond

Appl. No.: 10/670,429

Filed: September 23, 2003

For: Chrysanthemum Plant Named  
'Esperanto Happy'

Art Unit: 1661

PTO Confirmation No.: 1301

Examiner: Unknown

Atty. Docket: 13519.0005.NPUS01

### INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Listed on accompanying PTO Form 1449 are documents and information that may be considered material to the examination of this application, in compliance with the duty of disclosure requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98. Copies of the documents are enclosed.

Enclosed is a copy of U.S. Plant Patent No. 11,758, entitled Chrysanthemum Plant named 'Yofort Wayne.' 'Yofort Wayne' shows similar striped petals as the 'Eperanto Happy' variety of the instant application but a very different color scheme and other different plant characteristics.

Enclosed is a copy of published U.S. Plant Patent Application No. US 2003/0121087 P1 entitled Chrysanthemum Plant Named 'Esperanto.' The 'Esperanto Happy' variety that is the subject of this application is a whole plant mutation of 'Esperanto Improved,' which in turn is a whole plant mutation of the 'Esperanto' variety described in the published Patent Application No. US 2003/0121087.

Also enclosed is a copy of a Ficor 2001 catalog, published October 12, 2000, that includes a color photograph of the 'Esperanto' variety. See pages 2 (color photograph), 4 and 9. A copy of a Ficor 2000 catalog, published November 9, 1999, is also enclosed that lists the 'Esperanto' variety under the commercial name 'Esperanza.' See pages 4 and 13.

Further enclosed is a copy of a Ficor 2002 Catalog, first published September 25, 2001, which lists the variety 'Esperanto' as an offering. See pages 4 and 9. The catalog also contains a color photograph of other members of the 'Esperanto' family, including 'Esperanto Happy,' the subject of this application. See page 16 (color photograph). Still further enclosed is a copy of a Ficor 2003 catalog, published September 12, 2002, which lists the variety 'Esperanto Improved' as an offering. See page 2 and 7.

This U.S. plant patent application claims the benefit of U.S. Provisional Application No. 60/413,586, filed September 24, 2002. With regard to the 'Esperanto Happy' variety that is the subject of this application, to the Applicant's knowledge, this variety has not been the subject of an application for protection in any other country, or been sold, offered for sale, or otherwise publicly disclosed or distributed, more than one year prior to the U.S. filing date for Provisional Application No. 60/413,586.

Applicant reserves the right to establish the patentability of the claimed invention over any of the information provided here, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.

This statement should not be construed as a representation that a search has been made, or that information more material to the examination of the present patent application

does not exist. The Examiner is specifically requested not to rely solely on the material submitted herewith.

It is respectfully requested that the Examiner initial and return a copy of the enclosed PTO-1449, and to indicate in the official file wrapper of this patent application that the documents have been considered.

It is believed that this disclosure complies with the requirements of 37 C.F.R. §§ 1.56, 1.97 and 1.98, and the Manual of Patent Examining Procedures § 609. If for some reason the Examiner considers otherwise, or requires additional information, Applicant requests that the Examiner call the undersigned so that any deficiencies can be remedied.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 08-3038 referencing docket number 13519.0005.NPUS01.

Dated: January 22, 2004

Respectfully submitted,



Mark K. Dickson  
Attorney Reg. No. 32,889  
HOWREY SIMON ARNOLD & WHITE, LLP  
301 Ravenswood Avenue  
Menlo Park, CA 94025  
(650) 463-8234

**LIST OF REFERENCES CITED BY APPLICANT**  
*(Use several sheets if necessary)*

PTO FORM 1449

ATTY. DOCKET NO.

\*13519.0005.NPUS01

APPLICATION NO.

\*10/670,429

APPLICANT

\*Richard Hammond

FILING DATE

\*September 23, 2003

GROUP

\*1661

**U.S. PATENT DOCUMENTS**

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
	1.	US PP 11,758	01-30-01	Vandenberg	PLT/286		
	2.	US 2003/0121087 P1	6-26-03	Hammond	PLT/286		
	3.						
	4.						

**FOREIGN PATENT DOCUMENTS**

*EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO
	5.							
	6.							
	7.							

**OTHER REFERENCES***(Including Author, Title, Date, Pertinent Pages, Etc.)*

	8.	2000 Ficor Catalog, published November 9, 1999, listing Chrysanthemum variety 'Esperanto' under the commercial name 'Esperanza.' See pages 4 and 13.
	9.	2001 Ficor Catalog, published October 12, 2000, listing Chrysanthemum variety 'Esperanto.' See pages 2 (color photograph), 4 and 9.
	10.	2002 Ficor Catalog, published September 25, 2001, listing Chrysanthemum varieties 'Esperanto' and 'Esperanto Improved.' See pages 4, 9, 16 (color photograph) and unnumbered insert.
	11.	2003 Ficor Catalog, published September 12, 2002, listing Chrysanthemum variety 'Esperanto Improved.' See pages 2 and 7.
	12.	
	13.	
	14.	
	15.	
	16.	
	17.	

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

